modest relief which the administration proposes.

So the President is not required to do anything that he does not want to do. He is enabled to do what he does wish to do, or says that he wishes to do. He is enabled to keep his own commitments, and the people of the United States, and especially those in timber country, can then determine whether or not those commitments are indeed adequate; are, indeed, balanced.

I trust that later on this year we will be dealing with legislation that will create that balance. But in the meantime, this significant though modest relief will be available. For that I am most grateful.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SMITH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A TRIBUTE TO NILS M. SANDER

Mr. SMITH. Mr. President, I rise today to pay tribute to a long time friend, Nils M. Sander, of Kingston, NH.

Nils was a deeply religious man, a devoted husband and father and a true American patriot. Although he would not immediately be recognized by millions of Americans, he embodied the essence of the American people and their spirit.

Nils Sander died on March 17, 1995, but it is his life that I want to share with my colleagues today.

Nils was born in 1917 in Stockholm, Sweden, the second son of John and Maria Sander. It was soon after Nils' birth that the Sander family began immigrating to America. Initially it was several aunts and uncles and then as word spread among the family that in America the jobs were plentiful and opportunity was boundless, Nils' parents, John and Maria, brought their whole family.

Nils, his brother, Arnie, a pregnant mother and a hopeful father disembarked from the boat at Ellis Island. Nils' sister, Nana, was later born in America and it was her birth as a U.S. citizen that enabled her to sponsor the rest of the family into citizenship. Nils' father, John, the industrious and hardworking Swede, found work as a machinist and was soon able to buy his family a home.

Nils grew up in a generation that knew the value of a strong work ethic. He saw the Depression. He saw it devastate the lives of his neighbors, family and friends. Nils' brother left home so there would be one less mouth to feed. His mother pawned her wedding ring to feed her family. Nils learned the value of saving and he learned the machinist trade from his father. He learned to love America.

In 1942, Nils married his high school sweetheart, Ruth Seaburg. While his wife was expecting their first child, World War II was raging. Nils joined the Navy because he knew that freedom was not free. Nils put his life on the line to preserve that freedom not only for his generation but for his children and grandchildren for generations to come.

He served as a machinist mate on board the U.S.S. *Doyle C. Barnes* in the Philippines and New Guinea. It was in 1944 that Nils returned from the war. He came home to a son who was ready a year old. Nils found work at the Watertown Arsenal and then later at MIT as a tool and die maker.

In 1947, Nils moved his family to Kingston, NH, and a second son was born. He rode his bike 2 miles to the train station in the next town in order to make his way to and from Haverhill, MA, where he taught at a trade school. The family was soon able to buy a car and life became easier.

The agreement at Yalta removed forever any lingering Socialist ideas that had been brought from Sweden with his parents. No man or nation had the right to determine the sovereignty of another nation. Individual freedom with responsibility began to root itself deep into Nils' beliefs. Those beliefs formed the basis for his conservative philosophy.

Nils' family remembers very clearly the lengthy conversations around the dinner table had about communism, his compassion for people imprisoned within the Communist state, and his determination that freedom must prevail against those tyrannies.

For Nils, there was never a problem with defining right or wrong. His faith in God and knowledge of biblical lessons were all he needed to direct his life and to teach his family, his students, and all who came to know him.

Nils was a founder of the Kingston Community House, a volunteer organization formed to help those in need in the community. They provided food and clothes to those who were without. They provided Christmas gifts for needy children, and they ran a weekly meal program. The success of the Kingston Community House brought Nancy Reagan to Kingston because of her interest in voluntarism.

Nils became active in the New Hampshire Republican Party and campaigned tirelessly for those conservative candidates who shared his ideals. Those he worked for included Barry Goldwater, Richard Nixon, Ronald Reagan, Gordon Humphrey, Mel Thomson, and BOB SMITH. Nils was not only our supporter—he was our friend.

Nils was there for me in the beginning when it was tough going. He did not have to help me but he did, and he never asked for anything in return. Not one thing did he ever ask in return.

Nils helped to craft the conservative platform which now guides the party. He was one of the quiet people who never asked for anything but good government—and the less the better. He believed with all his heart that government should do only what people cannot do for themselves.

Nils never ran for public office. So you would not know him. Instead he preferred to serve from the sidelines. He was always there when a void needed to be filled which could further his conservative beliefs in the preciousness of freedom, the sanctity of human life, and the importance of family.

Nils and his wife, Ruth and his daughter, Asta, and the rest of the family, were quiet but active Americans who deserve a great deal of credit for the revolution which took place in last November's election. They never sat back and let the liberal agenda destroy the fragile freedom we enjoy. They went to work every day. They taught their families right from wrong and they taught them to love God and to love America and to take their responsibilities seriously, to save for the future, and not to be a burden to society.

As I indicated, Nils passed away a short time ago. He suffered from Alzheimers, a cruel disease that has also stricken one of his beloved political leaders, Ronald Reagan. Because he was in the final stages of Alzheimers, Nils was unable to witness the November elections and enjoy the fruits of his labors.

Nils—I know that you are watching now and smiling as you see your old friend in the majority in the U.S. Senate.

I am a U.S. Senator today because of Nils Sander. Nils believed in me at a time when it was tough. And I believed in him. I will miss my friend, and I intend to honor his memory by continuing to fight for the conservative principles he espoused.

Yes, Nils Sander, one man can make a difference * * * and you did.

Thank you, Mr. President.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. PRYOR and Mr. HATCH pertaining to the introduction of S. 1006 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

REGULATORY PROCEDURES REFORM ACT

Mr. GLENN. Mr. President, yesterday, I, along with a bipartisan group of Senators, introduced S. 1001, the Regulatory Procedures Reform Act of 1995.

Upon its introduction, it was my intention to have the bill printed in the RECORD so that all Members with an interest in this important issue—the

issue of regulatory reform—would have the opportunity to review the provisions of the measure. Unfortunately, the measure was not printed.

Therefore, I now ask unanimous consent that the text of S. 1001 and a comparative be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1001

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Regulatory Procedures Reform Act of 1995''.

SEC. 2. DEFINITIONS.

Section 551 of title 5, United States Code, is amended—

(1) in paragraph (13), by striking out ''; and'' and inserting in lieu thereof a semicolon;

(2) in paragraph (14), by striking out the period and inserting in lieu thereof ''; and''; and

(3) by adding at the end thereof the following new paragraph:

''(15) 'Director' means the Director of the Office of Management and Budget.''.

SEC. 3. ANALYSIS OF AGENCY RULES.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

''SUBCHAPTER II—ANALYSIS OF AGENCY RULES

''§ 621. Definitions

''For purposes of this subchapter the definitions under section 551 shall apply and—

''(1) the term 'benefit' means the reasonably identifiable significant favorable effects, including social, environmental, and economic benefits, that are expected to result directly or indirectly from implementation of a rule or an alternative to a rule;

''(2) the term 'cost' means the reasonably identifiable significant adverse effects, including social, environmental, and economic costs that are expected to result directly or indirectly from implementation of, or compliance with, a rule or an alternative to a rule;

''(3) the term 'cost-benefit analysis' means an evaluation of the costs and benefits of a rule, quantified to the extent feasible and appropriate and otherwise qualitatively described, that is prepared in accordance with the requirements of this subchapter at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition;

''(4)(A) the term 'major rule' means a rule or a group of closely related rules that the agency proposing the rule, the Director, or a designee of the President reasonably determines is likely to have a gross annual effect on the economy of $100,000,000 or more in reasonably quantifiable direct and indirect costs; and

''(B) the term 'major rule' shall not include—

''(i) a rule that involves the internal revenue laws of the United States;

''(ii) a rule or agency action that authorizes the introduction into, or removal from, commerce, or recognizes the marketable status, of a product; or

''(iii) a rule exempt from notice and public comment procedure under section 553 of this title;

''(5) the term 'market-based mechanism' means a regulatory program that—

''(A) imposes legal accountability for the achievement of an explicit regulatory objective, including the reduction of environmental pollutants or of risks to human health, safety, or the environment, on each regulated person;

''(B) affords maximum flexibility to each regulated person in complying with mandatory regulatory objectives, and such flexibility shall, where feasible and appropriate, include the opportunity to transfer to, or receive from, other persons, including for cash or other legal consideration, increments of compliance responsibility established by the program; and

''(C) permits regulated persons to respond at their own discretion in an automatic manner, consistent with subparagraph (B), to changes in general economic conditions and in economic circumstances directly pertinent to the regulatory program without affecting the achievement of the program's explicit regulatory mandates under subparagraph (A);

''(6) the term 'performance standard' means a requirement that imposes legal accountability for the achievement of an explicit regulatory objective, such as the reduction of environmental pollutants or of risks to human health, safety, or the environment, on each regulated person;

''(7) the term 'risk assessment' has the same meaning as such term is defined under section 631(5); and

''(8) the term 'rule' has the same meaning as in section 551(4) of this title, and shall not include—

''(A) a rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, corporate or financial structures, reorganizations, mergers, acquisitions, accounting practices, or disclosures bearing on any of the foregoing;

''(B) a rule relating to monetary policy proposed or promulgated by the Board of Governors of the Federal Reserve System or by the Federal Open Market Committee;

''(C) a rule relating to the safety or soundness of federally insured depository institutions or any affiliate of such an institution (as defined in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k)); credit unions; the Federal Home Loan Banks; government-sponsored housing enterprises; a Farm Credit System Institution; foreign banks, and their branches, agencies, commercial lending companies or representative offices that operate in the United States and any affiliate of such foreign banks (as those terms are defined in the International Banking Act of 1978 (12 U.S.C. 3101)); or a rule relating to the payments system or the protection of deposit insurance funds or Farm Credit Insurance Fund; or

''(D) a rule issued by the Federal Election Commission or a rule issued by the Federal Communications Commission pursuant to sections 312(a)(7) and 315 of the Communications Act of 1934 (47 U.S.C. 312(a)(7) and 315).

''§ 622. Rulemaking cost-benefit analysis

''(a) Before publishing notice of a proposed rulemaking for any rule (or, in the case of a notice of a proposed rulemaking that has been published on or before the effective date of this subchapter, no later than 30 days after such date), each agency shall determine whether the rule is or is not a major rule. For the purpose of any such determination, a group of closely related rules shall be considered as one rule.

''(b)(1) If an agency has determined that a rule is not a major rule, the Director or a designee of the President may, as appropriate, determine that the rule is a major rule no later than 30 days after the publication of the notice of proposed rulemaking for the rule (or, in the case of a notice of proposed rulemaking that has been published on or before the effective date of this subchapter, no later than 60 days after such date).

''(2) Such determination shall be published in the Federal Register, together with a succinct statement of the basis for the determination.

''(c)(1)(A) When the agency publishes a notice of proposed rulemaking for a major rule, the agency shall issue and place in the rulemaking file an initial cost-benefit analysis, and shall include a summary of such analysis in the notice of proposed rulemaking.

''(B)(i) When the Director or a designee of the President has published a determination that a rule is a major rule after the publication of the notice of proposed rulemaking for the rule, the agency shall promptly issue and place in the rulemaking file an initial cost-benefit analysis for the rule and shall publish in the Federal Register a summary of such analysis.

''(ii) Following the issuance of an initial cost-benefit analysis under clause (i), the agency shall give interested persons an opportunity to comment pursuant to section 553 in the same manner as if the draft cost-benefit analysis had been issued with the notice of proposed rulemaking.

''(2) Each initial cost-benefit analysis shall contain—

''(A) an analysis of the benefits of the proposed rule, including any benefits that cannot be quantified, and an explanation of how the agency anticipates that such benefits will be achieved by the proposed rule, including a description of the persons or classes of persons likely to receive such benefits;

''(B) an analysis of the costs of the proposed rule, including any costs that cannot be quantified, and an explanation of how the agency anticipates that such costs will result from the proposed rule, including a description of the persons or classes of persons likely to bear such costs;

''(C) an identification (including an analysis of costs and benefits) of an appropriate number of reasonable alternatives allowed under the statute granting the rulemaking authority for achieving the identified benefits of the proposed rule, including alternatives that—

''(i) require no government action;

''(ii) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply; and

''(iii) employ voluntary programs, performance standards, or market-based mechanisms that permit greater flexibility in achieving the identified benefits of the proposed rule and that comply with the requirements of subparagraph (D);

''(D) an assessment of the feasibility of establishing a regulatory program that operates through the application of market-based mechanisms;

''(E) an explanation of the extent to which the proposed rule—

''(i) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply; and

''(ii) employs voluntary programs, performance standards, or market-based mechanisms that permit greater flexibility in achieving the identified benefits of the proposed rule;

''(F) a description of the quality, reliability, and relevance of scientific or economic evaluations or information in accordance with the cost-benefit analysis and risk assessment requirements of this chapter;

''(G) if not expressly or implicitly inconsistent with the statute under which the agency is proposing the rule, an explanation of the extent to which the identified benefits

of the proposed rule justify the identified costs of the proposed rule, and an explanation of how the proposed rule is likely to substantially achieve the rulemaking objectives in a more cost-effective manner than the alternatives to the proposed rule, including alternatives identified in accordance with subparagraph (C); and

''(H) if a major rule subject to subchapter III addresses risks to human health, safety, or the environment—

''(i) a risk assessment in accordance with this chapter; and

''(ii) for each such proposed or final rule, an assessment of incremental risk reduction or other benefits associated with each significant regulatory alternative considered by the agency in connection with the rule or proposed rule.

''(d)(1) When the agency publishes a final major rule, the agency shall also issue and place in the rulemaking file a final cost-benefit analysis, and shall include a summary of the analysis in the statement of basis and purpose.

''(2) Each final cost-benefit analysis shall contain—

''(A) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rulemaking, including the market-based mechanisms identified under subsection (c)(2)(C)(iii); and

''(B) if not expressly or implicitly inconsistent with the statute under which the agency is acting, a reasonable determination, based upon the rulemaking file considered as a whole, whether—

''(i) the benefits of the rule justify the costs of the rule; and

''(ii) the rule will achieve the rulemaking objectives in a more cost-effective manner than the alternatives described in the rulemaking, including the market-based mechanisms identified under subsection (c)(2)(C)(iii).

''(e)(1) The analysis of the benefits and costs of a proposed and a final rule required under this section shall include, to the extent feasible, a quantification or numerical estimate of the quantifiable benefits and costs. Such quantification or numerical estimate shall be made in the most appropriate units of measurement, using comparable assumptions, including time periods, shall specify the ranges of predictions, and shall explain the margins of error involved in the quantification methods and in the estimates used. An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a final rule pursuant to this section in as precise and succinct a manner as possible. An agency shall not be required to make such evaluation primarily on a mathematical or numerical basis.

''(2)(A) In evaluating and comparing costs and benefits and in evaluating the risk assessment information developed under subchapter III, the agency shall not rely on cost, benefit, or risk assessment information that is not accompanied by data, analysis, or other supporting materials that would enable the agency and other persons interested in the rulemaking to assess the accuracy, reliability, and uncertainty factors applicable to such information.

''(B) The agency evaluations of the relationships of the benefits of a proposed and final rule to its costs shall be clearly articulated in accordance with this section.

''(f) As part of the promulgation of each major rule that addresses risks to human health, safety, or the environment, the head of the agency or the President shall make a determination that—

''(1) the risk assessment and the analysis under subsection (c)(2)(H) are based on a scientific evaluation of the risk addressed by the major rule and that the conclusions of such evaluation are supported by the available information; and

''(2) the regulatory alternative chosen will reduce risk in a cost-effective and, to the extent feasible, flexible manner, taking into consideration any of the alternatives identified under subsection (c)(2) (C) and (D).

''(g) The preparation of the initial or final cost-benefit analysis required by this section shall only be performed under the direction of an officer or employee of the agency. The preceding sentence shall not preclude a person outside the agency from gathering data or information to be used by the agency in preparing any such cost-benefit analysis or from providing an explanation sufficient to permit the agency to analyze such data or information. If any such data or information is gathered or explained by a person outside the agency, the agency shall specifically identify in the initial or final cost-benefit analysis the data or information gathered or explained and the person who gathered or explained it, and shall describe the arrangement by which the information was procured by the agency, including the total amount of funds expended for such procurement.

''(h) The requirements of this subchapter shall not alter the criteria for rulemaking otherwise applicable under other statutes.

''§ 623. Judicial review

''(a) Compliance or noncompliance by an agency with the provisions of this subchapter and subchapter III shall not be subject to judicial review except in connection with review of a final agency rule and according to the provisions of this section.

''(b) Any determination by a designee of the President or the Director that a rule is, or is not, a major rule shall not be subject to judicial review in any manner.

''(c) The determination by an agency that a rule is, or is not, a major rule shall be set aside by a reviewing court only upon a clear and convincing showing that the determination is erroneous in light of the information available to the agency at the time the agency made the determination.

''(d) If the cost-benefit analysis or risk assessment required under this chapter has been wholly omitted for any major rule, a court shall vacate the rule and remand the case for further consideration. If an analysis or assessment has been performed, the court shall not review to determine whether the analysis or assessment conformed to the particular requirements of this chapter.

''(e) Any cost-benefit analysis or risk assessment prepared under this chapter shall not be subject to judicial consideration separate or apart from review of the agency action to which it relates. When an action for judicial review of an agency action is instituted, any regulatory analysis for such agency action shall constitute part of the whole administrative record of agency action for the purpose of judicial review of the agency action, and shall, to the extent relevant, be considered by a court in determining the legality of the agency action.

''§ 624. Deadlines for rulemaking

''(a) All deadlines in statutes that require agencies to propose or promulgate any rule subject to section 622 or subchapter III during the 2-year period beginning on the effective date of this section shall be suspended until the earlier of—

''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

''(2) the date occurring 6 months after the date of the applicable deadline.

''(b) All deadlines imposed by any court of the United States that would require an agency to propose or promulgate a rule subject to section 622 or subchapter III during the 2-year period beginning on the effective date of this section shall be suspended until the earlier of—

''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

''(2) the date occurring 6 months after the date of the applicable deadline.

''(c) In any case in which the failure to promulgate a rule by a deadline occurring during the 2-year period beginning on the effective date of this section would create an obligation to regulate through individual adjudications, the deadline shall be suspended until the earlier of—

''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

''(2) the date occurring 6 months after the date of the applicable deadline.

''§ 625. Agency review of rules

''(a)(1)(A) No later than 9 months after the effective date of this section, each agency shall prepare and publish in the Federal Register a proposed schedule for the review, in accordance with this section, of—

''(i) each rule of the agency that is in effect on such effective date and which, if adopted on such effective date, would be a major rule; and

''(ii) each rule of the agency in effect on the effective date of this section (in addition to the rules described in clause (i)) that the agency has selected for review.

''(B) Each proposed schedule required under subparagraph (A) shall be developed in consultation with—

''(i) the Administrator of the Office of Information and Regulatory Affairs; and

''(ii) the classes of persons affected by the rules, including members from the regulated industries, small businesses, State and local governments, and organizations representing the interested public.

''(C) Each proposed schedule required under subparagraph (A) shall establish priorities for the review of rules that, in the joint determination of the Administrator of the Office of Information and Regulatory Affairs and the agency, most likely can be amended or eliminated to—

''(i) provide the same or greater benefits at substantially lower costs;

''(ii) achieve substantially greater benefits at the same or lower costs; or

''(iii) replace command-and-control regulatory requirements with market mechanisms or performance standards that achieve substantially equivalent benefits at lower costs or with greater flexibility.

''(D) Each proposed schedule required by subparagraph (A) shall include—

''(i) a brief explanation of the reasons the agency considers each rule on the schedule to be a major rule, or the reasons why the agency selected the rule for review;

''(ii) a date set by the agency, in accordance with subsection (b), for the completion of the review of each such rule; and

''(iii) a statement that the agency requests comments from the public on the proposed schedule.

''(E) The agency shall set a date to initiate review of each rule on the schedule in a manner that will ensure the simultaneous review of related items and that will achieve a reasonable distribution of reviews over the period of time covered by the schedule.

''(2) No later than 90 days before publishing in the Federal Register the proposed schedule required under paragraph (1), each agency shall make the proposed schedule available to the Director or a designee of the President. The President or that officer may select for review in accordance with this section any additional rule.

''(3) No later than 1 year after the effective date of this section, each agency shall publish in the Federal Register a final schedule for the review of the rules referred to in

paragraphs (1) and (2). Each agency shall publish with the final schedule the response of the agency to comments received concerning the proposed schedule.

''(b)(1) Except as explicitly provided otherwise by statute, the agency shall, pursuant to subsections (c) through (e), review—

''(A) each rule on the schedule promulgated pursuant to subsection (a);

''(B) each major rule promulgated, amended, or otherwise continued by an agency after the effective date of this section; and

''(C) each rule promulgated after the effective date of this section that the President or the officer designated by the President selects for review pursuant to subsection (a)(2).

''(2) Except as provided pursuant to subsection (f), the review of a rule required by this section shall be completed no later than the later of—

''(A) 10 years after the effective date of this section; or

''(B) 10 years after the date on which the rule is—

''(i) promulgated; or

''(ii) amended or continued under this section.

''(c) An agency shall publish in the Federal Register a notice of its proposed action under this section with respect to a rule being reviewed. The notice shall include—

''(1) an identification of the specific statutory authority under which the rule was promulgated and an explanation of whether the agency's interpretation of the statute is expressly required by the current text of that statute or, if not, whether it is within the range of permissible interpretations of the statute;

''(2) an analysis of the benefits and costs of the rule during the period in which it has been in effect;

''(3) an explanation of the proposed agency action with respect to the rule, including action to repeal or amend the rule to resolve inconsistencies or conflicts with any other obligation or requirement established by any Federal statute, rule, or other agency statement, interpretation, or action that has the force of law; and

''(4) a statement that the agency seeks proposals from the public for modifications or alternatives to the rule which may accomplish the objectives of the rule in a more effective or less burdensome manner.

''(d) If an agency proposes to repeal or amend a rule under review pursuant to this section, the agency shall, after issuing the notice required by subsection (c), comply with the provisions of this chapter, chapter 5, and any other applicable law. The requirements of such provisions and related requirements shall apply to the same extent and in the same manner as in the case of a proposed agency action to repeal or amend a rule that is not taken pursuant to the review required by this section.

''(e) If an agency proposes to continue without amendment a rule under review pursuant to this section, the agency shall—

''(1) give interested persons no less than 60 days after the publication of the notice required by subsection (c) to comment on the proposed continuation; and

''(2) publish in the Federal Register notice of the continuation of such rule.

''(f) Any agency, which for good cause finds that compliance with this section with respect to a particular rule during the period provided in subsection (b) of this section is contrary to an important public interest may request the President, or the officer designated by the President pursuant to subsection (a)(2), to establish a period longer than 10 years for the completion of the review of such rule. The President or that officer may extend the period for review of a rule to a total period of no more than 15 years. Such extension shall be published in the Federal Register with an explanation of the reasons therefor.

''(g) If the agency fails to comply with the requirements of subsection (b)(2), the agency shall immediately commence a rulemaking action pursuant to section 553 of this title to repeal the rule.

''(h) Nothing in this section shall relieve any agency from its obligation to respond to a petition to issue, amend, or repeal a rule, for an interpretation regarding the meaning of a rule, or for a variance or exemption from the terms of a rule, submitted pursuant to any other provision of law.

''§ 626. Public participation and accountability

''In order to maximize accountability for, and public participation in, the development and review of regulatory actions each agency shall, consistent with chapter 5 and other applicable law, provide the public with opportunities for meaningful participation in the development of regulatory actions, including—

''(1) seeking the involvement, where practicable and appropriate, of those who are intended to benefit from and those who are expected to be burdened by any regulatory action;

''(2) providing in any proposed or final rulemaking notice published in the Federal Register—

''(A) a certification of compliance with the requirements of this chapter, or an explanation why such certification cannot be made;

''(B) a summary of any regulatory analysis required under this chapter, or under any other legal requirement, and notice of the availability of the regulatory analysis;

''(C) a certification that the rule will produce benefits that will justify the cost to the Government and to the public of implementation of, and compliance with, the rule, or an explanation why such certification cannot be made; and

''(D) a summary of the results of any regulatory review and the agency's response to such review, including an explanation of any significant changes made to such regulatory action as a consequence of regulatory review;

''(3) identifying, upon request, a regulatory action and the date upon which such action was submitted to the designated officer to whom authority was delegated under section 644 for review;

''(4) disclosure to the public, consistent with section 633(3), of any information created or collected in performing a regulatory analysis required under this chapter, or under any other legal requirement; and

''(5) placing in the appropriate rulemaking record all written communications received from the Director, other designated officer, or other individual or entity relating to regulatory review.

''SUBCHAPTER III—RISK ASSESSMENTS

''§ 631. Definitions

''For purposes of this subchapter, the definitions under sections 551 and 621 shall apply, and—

''(1) the term 'covered agency' means each agency required to comply with this subchapter, as provided in section 632;

''(2) the term 'emergency' means an imminent or substantial endangerment to public health, safety, or the environment if no action is taken;

''(3) the term 'exposure assessment' means the scientific determination of the intensity, frequency, and duration of exposures to the hazard in question;

''(4) the term 'hazard assessment' means the scientific determination of whether a hazard can cause an increased incidence of one or more significant adverse effects, and a scientific evaluation of the relationship between the degree of exposure to a perceived cause of an adverse effect and the incidence and severity of the effect;

''(5) the term 'risk assessment' means the systematic process of organizing and analyzing scientific knowledge and information on potential hazards, including as appropriate for the specific risk involved, hazard assessment, exposure assessment, and risk characterization;

''(6) the term 'risk characterization' means the integration and organization of hazard and exposure assessment to estimate the potential for specific harm to an exposed individual population or natural resource including, to the extent feasible, a characterization of the distribution of risk as well as an analysis of uncertainties, variabilities, conflicting information, and inferences and assumptions in the assessment;

''(7) the term 'screening analysis' means an analysis using simple conservative postulates to arrive at an estimate of upper and lower bounds as appropriate, that permits the manager to eliminate risks from further consideration and analysis, or to help establish priorities for agency action; and

''(8) the term 'substitution risk' means an increased risk to human health, safety, or the environment reasonably likely to result from a regulatory option.

''§ 632. Applicability

''(a) Except as provided in subsection (c), this subchapter shall apply to all risk assessments and risk characterizations prepared in connection with a major rule addressing health, safety, and environmental risks by—

''(1) the Secretary of Defense, for major rules relating to the programs and responsibilities of the United States Army Corps of Engineers;

''(2) the Secretary of the Interior, for major rules relating to the programs and responsibilities of the Office of Surface Mining Reclamation and Enforcement;

''(3) the Secretary of Agriculture, for major rules relating to the programs and responsibilities of—

''(A) the Animal and Plant Health Inspection Service;

''(B) the Grain Inspection, Packers, and Stockyards Administration;

''(C) the Food Safety and Inspection Service;

''(D) the Forest Service; and

''(E) the Natural Resources Conservation Service;

''(4) the Secretary of Commerce, for major rules relating to the programs and responsibilities of the National Marine Fisheries Service;

''(5) the Secretary of Labor, for major rules relating to the programs and responsibilities of—

''(A) the Occupational Safety and Health Administration; and

''(B) the Mine Safety and Health Administration;

''(6) the Secretary of Health and Human Services, for major rules relating to the programs and responsibilities assigned to the Food and Drug Administration;

''(7) the Secretary of Transportation, for major rules relating to the programs and responsibilities assigned to—

''(A) the Federal Aviation Administration; and

''(B) the National Highway Traffic Safety Administration;

''(8) the Secretary of Energy, for major rules relating to nuclear safety, occupational safety and health, and environmental restoration and waste management;

''(9) the Chairman of the Consumer Product Safety Commission;

''(10) the Administrator of the Environmental Protection Agency; and

''(11) the Chairman of the Nuclear Regulatory Commission.

''(b)(1) No later than 18 months after the effective date of this section, the President, acting through the Director of the Office of Management and Budget, shall determine whether other Federal agencies should be considered covered agencies for the purposes of this subchapter. Such determination, with respect to a particular Federal agency, shall be based on the impact of risk assessment documents and risk characterization documents on—

''(A) regulatory programs administered by that agency; and

''(B) the communication of risk information by that agency to the public.

''(2) If the President makes a determination under paragraph (1), this subchapter shall apply to any agency determined to be a covered agency beginning on a date set by the President. Such date may be no later than 6 months after the date of such determination.

''(c)(1) This subchapter shall not apply to risk assessments or risk characterizations performed with respect to—

''(A) an emergency determined by the head of an agency;

''(B) a health, safety, or environmental inspection, compliance or enforcement action, or individual facility permitting action; or

''(C) a screening analysis.

''(2) This subchapter shall not apply to any food, drug, or other product label, or to any risk characterization appearing on any such label.

''§ 633. Savings provisions

''Nothing in this subchapter shall be construed to—

''(1) modify any statutory standard or requirement designed to protect human health, safety, or the environment; or

''(2) require the disclosure of any trade secret or other confidential information.

''§ 634. Principles for risk assessments

''(a)(1) The head of each agency shall design and conduct risk assessments in a manner that promotes rational and informed risk management decisions and informed public input into the process of making agency decisions.

''(2) The head of each agency shall establish and maintain a distinction between risk assessment and risk management.

''(3) An agency may take into account priorities for managing risks, including the types of information that would be important in evaluating a full range of alternatives, in developing priorities for risk assessment activities.

''(4) An agency shall not be required to repeat discussions or explanations in each risk assessment required under this subchapter if there is an unambiguous reference to a relevant discussion or explanation in another reasonably available agency document that meets the requirements of this section.

''(5)(A) In conducting a risk assessment, the head of each agency shall employ the level of detail and rigor appropriate and practicable for reasoned decisionmaking in the matter involved, proportionate to the significance and complexity of the potential agency action and the need for expedition.

''(B)(i) Each agency shall develop and use an iterative process for risk assessment, starting with relatively inexpensive screening analyses and progressing to more rigorous analyses, as circumstances or results warrant.

''(ii) In determining whether or not to proceed to a more detailed analysis, the head of the agency shall take into consideration whether or not use of additional data or the analysis thereof would significantly change the estimate of risk.

''(b)(1) The head of each agency shall base each risk assessment on the best reasonably available scientific information, including scientific information that finds or fails to find a correlation between a potential hazard and an adverse effect, and data regarding exposure and other relevant physical conditions that are reasonably expected to be encountered.

''(2) The head of an agency shall select data for use in the assessment based on an appropriate consideration of the quality and relevance of the data, and shall describe the basis for selecting the data.

''(3) In making its selection of data, the head of an agency shall consider whether the data were developed in accordance with good scientific practice or other appropriate protocols to ensure data quality.

''(4) Subject to paragraph (3), relevant scientific data submitted by interested parties shall be reviewed and considered in the analysis by the head of an agency under paragraph (2).

''(5) When conflicts among scientific data appear to exist, the risk assessment shall include a discussion of all relevant information, including the likelihood of alternative interpretations of data.

''(c)(1) To the maximum extent practicable, the head of each agency shall use postulates, including default assumptions, inferences, models, or safety factors, when relevant scientific data and understanding, including site-specific data, are lacking.

''(2) When a risk assessment involves choice of a postulate, the head of the agency shall—

''(A) identify the postulate and its scientific or policy basis, including the extent to which the postulate has been validated by, or conflicts with, empirical data;

''(B) explain the basis for any choices among postulates; and

''(C) describe reasonable alternative postulates that were not selected by the agency for use in the risk assessment, and the sensitivity for the conclusions of the risk assessment to the alternatives, and the rationale for not using such alternatives.

''(3) An agency shall not inappropriately combine or compound multiple postulates.

''(4) The head of each agency shall develop a procedure and publish guidelines for choosing default postulates and for deciding when and how in a specific risk assessments to adopt alternative postulates or to use available scientific information in place of a default postulate.

''(d) The head of each agency shall provide appropriate opportunities for public participation and comment on risk assessments.

''(e) In each risk assessment, the head of each agency shall include in the risk characterization, as appropriate, each of the following:

''(1) A description of the hazard of concern.

''(2) A description of the populations or natural resources that are the subject of the risk assessment.

''(3) An explanation of the exposure scenarios used in the risk assessment, including an estimate of the corresponding population at risk and the likelihood of such exposure scenarios.

''(4) A description of the nature and severity of the harm that could plausibly occur.

''(5) A description of the major uncertainties in each component of the risk assessment and their influence on the results of the assessment.

''(f) To the extent feasible and scientifically appropriate, the head of an agency shall—

''(1) express the overall estimate of risk as a range or probability distribution that reflects variabilities and uncertainties in the analysis;

''(2) provide the range and distribution of risks and the corresponding exposure scenarios, identifying the reasonably expected risk to the general population and, where appropriate, to more highly exposed or sensitive subpopulations; and

''(3) where quantitative estimates of the range and distribution of risk estimates are not available, describe the qualitative factors influencing the range of possible risks.

''(g) The head of an agency shall place the nature and magnitude of risks to human health, safety, and the environment being analyzed in context, including appropriate comparisons with other risks that are familiar to, and routinely encountered by, the general public.

''(h) In any notice of proposed or final regulatory action subject to this subchapter, the head of an agency shall describe significant substitution risks to human health or safety identified by the agency or contained in information provided to the agency by a commentator.

''§ 635. Peer review

''(a) The head of each covered agency shall develop a systematic program for independent and external peer review required under subsection (b). Such program shall be applicable throughout each covered agency and—

''(1) shall provide for the creation of peer review panels that—

''(A) consist of members with expertise relevant to the sciences involved in regulatory decisions and who are independent of the covered agency; and

''(B) are broadly representative and balanced and, to the extent relevant and appropriate, may include persons affiliated with Federal, State, local, or tribal governments, small businesses, other representatives of industry, universities, agriculture, labor consumers, conservation organizations, or other public interest groups and organizations;

''(2) shall not exclude any person with substantial and relevant expertise as a panel member on the basis that such person represents an entity that may have a potential interest in the outcome, if such interest is fully disclosed to the agency, and in the case of a regulatory decision affecting a single entity, no peer reviewer representing such entity may be included on the panel;

''(3) shall provide for a timely completed peer review, meeting agency deadlines, that contains a balanced presentation of all considerations, including minority reports and an agency response to all significant peer review comments; and

''(4) shall provide adequate protections for confidential business information and trade secrets, including requiring panel members to enter into confidentiality agreements.

''(b)(1)(A) Except as provided under subparagraph (B), each covered agency shall provide for peer review in accordance with this section of any risk assessment or cost-benefit analysis that forms the basis of any major rule that addresses risks to the environment, health, or safety.

''(B) Subparagraph (A) shall not apply to a rule or other action taken by an agency to authorize or approve any individual substance or product.

''(2) The Director of the Office of Management and Budget may order that peer review be provided for any risk assessment or cost-benefit analysis that is likely to have a significant impact on public policy decisions or would establish an important precedent.

''(c) Each peer review under this section shall include a report to the Federal agency concerned with respect to the scientific and technical merit of data and methods used for the risk assessments or cost-benefit analyses.

''(d) The head of the covered agency shall provide a written response to all significant peer review comments.

''(e) All peer review comments or conclusions and the agency's responses shall be made available to the public and shall be made part of the administrative record for purposes of judicial review of any final agency action.

''(f) No peer review shall be required under this section for any data, method, document, or assessment, or any component thereof, which has been previously subjected to peer review.

''§ 636. Guidelines, plan for assessing new information, and report

''(a)(1)(A) As soon as practicable and scientifically feasible, each covered agency shall adopt, after notification and opportunity for public comment, guidelines to implement the risk assessment principles under section 634, as well as the cost-benefit analysis requirements under section 622, and shall provide a format for summarizing risk assessment results.

''(B) No later than 12 months after the effective date of this section, the head of each covered agency shall issue a report on the status of such guidelines to the Congress.

''(2) The guidelines under paragraph (1) shall—

''(A) include guidance on use of specific technical methodologies and standards for acceptable quality of specific kinds of data;

''(B) address important decisional factors for the risk assessment, risk characterization, and cost-benefit analysis at issue; and

''(C) provide procedures for the refinement and replacement of policy-based default assumptions.

''(b) The guidelines, plan and report under this section shall be developed after notice and opportunity for public comment, and after consultation with representatives of appropriate State agencies and local governments, and such other departments and agencies, organizations, or persons as may be advisable.

''(c) The President shall review the guidelines published under this section at least every 4 years.

''(d) The development, issuance, and publication of risk assessment and risk characterization guidelines under this section shall not be subject to judicial review.

''§ 637. Research and training in risk assessment

''(a) The head of each covered agency shall regularly and systematically evaluate risk assessment research and training needs of the agency, including, where relevant and appropriate, the following:

''(1) Research to reduce generic data gaps, to address modelling needs (including improved model sensitivity), and to validate default options, particularly those common to multiple risk assessments.

''(2) Research leading to improvement of methods to quantify and communicate uncertainty and variability among individuals, species, populations, and, in the case of ecological risk assessment, ecological communities.

''(3) Emerging and future areas of research, including research on comparative risk analysis, exposure to multiple chemicals and other stressors, noncancer endpoints, biological markers of exposure and effect, mechanisms of action in both mammalian and nonmammalian species, dynamics and probabilities of physiological and ecosystem exposures, and prediction of ecosystem-level responses.

''(4) Long-term needs to adequately train individuals in risk assessment and risk assessment application. Evaluations under this paragraph shall include an estimate of the resources needed to provide necessary training.

''(b) The head of each covered agency shall develop a strategy and schedule for carrying out research and training to meet the needs identified in subsection (a).

''§ 638. Interagency coordination

''(a) To promote the conduct, application, and practice of risk assessment in a consistent manner and to identify risk assessment data and research needs common to more than 1 Federal agency, the Director of the Office of Management and Budget, in consultation with the Office of Science and Technology Policy, shall—

''(1) periodically survey the manner in which each Federal agency involved in risk assessment is conducting such risk assessment to determine the scope and adequacy of risk assessment practices in use by the Federal Government;

''(2) provide advice and recommendations to the President and Congress based on the surveys conducted and determinations made under paragraph (1);

''(3) establish appropriate interagency mechanisms to promote—

''(A) coordination among Federal agencies conducting risk assessment with respect to the conduct, application, and practice of risk assessment; and

''(B) the use of state-of-the-art risk assessment practices throughout the Federal Government;

''(4) establish appropriate mechanisms between Federal and State agencies to communicate state-of-the-art risk assessment practices; and

''(5) periodically convene meetings with State government representatives and Federal and other leaders to assess the effectiveness of Federal and State cooperation in the development and application of risk assessment.

''(b) The President shall appoint National Peer Review Panels to review every 3 years the risk assessment practices of each covered agency for programs designed to protect human health, safety, or the environment. The Panels shall submit a report to the President and the Congress at least every 3 years containing the results of such review.

''§ 639. Plan for review of risk assessments

''(a) No later than 18 months after the effective date of this section, the head of each covered agency shall publish a plan to review and revise any risk assessment published before the expiration of such 18-month period if the covered agency determines that significant new information or methodologies are available that could significantly alter the results of the prior risk assessment.

''(b) A plan under subsection (a) shall—

''(1) provide procedures for receiving and considering new information and risk assessments from the public; and

''(2) set priorities and criteria for review and revision of risk assessments based on such factors as the agency head considers appropriate.

''§ 640. Judicial review

''The provisions of section 623 relating to judicial review shall apply to this subchapter.

''§ 640a. Deadlines for rulemaking

''The provisions of section 624 relating to deadlines for rulemaking shall apply to this subchapter.

''SUBCHAPTER IV—EXECUTIVE OVERSIGHT

''§ 641. Definition

''For purposes of this subchapter, the definitions under sections 551 and 621 shall apply.

''§ 642. Procedures

''The Director or other designated officer to whom authority is delegated under section 644 shall—

''(1) establish procedures for agency compliance with this chapter; and

''(2) monitor, review, and ensure agency implementation of such procedures.

''§ 643. Promulgation and adoption

''(a) Procedures established pursuant to section 642 shall only be implemented after opportunity for public comment. Any such procedures shall be consistent with the prompt completion of rulemaking proceedings.

''(b)(1) If procedures established pursuant to section 642 include review of any initial or final analyses of a rule required under this chapter, the time for any such review of any initial analysis shall not exceed 60 days following the receipt of the analysis by the Director, a designee of the President, or by an officer to whom the authority granted under section 642 has been delegated pursuant to section 644.

''(2) The time for review of any final analysis required under this chapter shall not exceed 60 days following the receipt of the analysis by the Director, a designee of the President, or such officer.

''(3)(A) The times for each such review may be extended for good cause by the President or such officer for an additional 30 days.

''(B) Notice of any such extension, together with a succinct statement of the reasons therefor, shall be inserted in the rulemaking file.

''§ 644. Delegation of authority

''(a) The President shall delegate the authority granted by this subchapter to the Director or to another officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate.

''(b) Notice of any delegation, or any revocation or modification thereof shall be published in the Federal Register.

''§ 645. Public disclosure of information

''The Director or other designated officer to whom authority is delegated under section 644, in carrying out the provisions of section 642, shall establish procedures (covering all employees of the Director or other designated officer) to provide public and agency access to information concerning regulatory review actions, including—

''(1) disclosure to the public on an ongoing basis of information regarding the status of regulatory actions undergoing review;

''(2) disclosure to the public, no later than publication of, or other substantive notice to the public concerning a regulatory action, of—

''(A) all written communications, regardless of form or format, including drafts of all proposals and associated analyses, between the Director or other designated officer and the regulatory agency;

''(B) all written communications, regardless of form or format, between the Director or other designated officer and any person not employed by the executive branch of the Federal Government relating to the substance of a regulatory action;

''(C) a record of all oral communications relating to the substance of a regulatory action between the Director or other designated officer and any person not employed by the executive branch of the Federal Government; and

''(D) a written explanation of any review action and the date of such action; and

''(3) disclosure to the regulatory agency, on a timely basis, of—

''(A) all written communications between the Director or other designated officer and

any person who is not employed by the executive branch of the Federal Government;

''(B) a record of all oral communications, and an invitation to participate in meetings, relating to the substance of a regulatory action between the Director or other designated officer and any person not employed by the executive branch of the Federal Government; and

''(C) a written explanation of any review action taken concerning an agency regulatory action.

''§ 646. Judicial review

''The exercise of the authority granted under this subchapter by the Director, the President, or by an officer to whom such authority has been delegated under section 644 shall not be subject to judicial review in any manner.''.

(b) REGULATORY FLEXIBILITY ANALYSIS.—

(1) IN GENERAL.—Section 611 of title 5, United States Code, is amended to read as follows:

''§ 611. Judicial review

''(a)(1) Except as provided in paragraph (2), no later than 1 year after the effective date of a final rule with respect to which an agency—

''(A) certified, pursuant to section 605(b), that such rule would not have a significant economic impact on a substantial number of small entities; or

''(B) prepared a final regulatory flexibility analysis pursuant to section 604,

an affected small entity may petition for the judicial review of such certification or analysis in accordance with this subsection. A court having jurisdiction to review such rule for compliance with section 553 of this title or under any other provision of law shall have jurisdiction to review such certification or analysis.

''(2)(A) Except as provided in subparagraph (B), in the case of a provision of law that requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period provided in paragraph (1), such lesser period shall apply to a petition for the judicial review under this subsection.

''(B) In a case in which an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b), a petition for judicial review under this subsection shall be filed no later than—

''(i) 1 year; or

''(ii) in a case in which a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period provided in paragraph (1), the number of days specified in such provision of law,

after the date the analysis is made available to the public.

''(3) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be adversely affected by the final rule.

''(4) Nothing in this subsection shall be construed to affect the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law.

''(5)(A) In a case in which an agency certifies that such rule would not have a significant economic impact on a substantial number of small entities, the court may order the agency to prepare a final regulatory flexibility analysis pursuant to section 604 if the court determines, on the basis of the rulemaking record, that the certification was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

''(B) In a case in which the agency prepared a final regulatory flexibility analysis, the court may order the agency to take corrective action consistent with section 604 if the court determines, on the basis of the rulemaking record, that the final regulatory flexibility analysis was prepared by the agency without complying with section 604.

''(6) If, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (5) (or such longer period as the court may provide), the agency fails, as appropriate—

''(A) to prepare the analysis required by section 604; or

''(B) to take corrective action consistent with section 604 of this title,

the court may stay the rule or grant such other relief as it deems appropriate.

''(7) In making any determination or granting any relief authorized by this subsection, the court shall take due account of the rule of prejudicial error.

''(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(5)) shall constitute part of the whole record of agency action in connection with such review.

''(c) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise provided by law.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the effective date of this Act, except that the judicial review authorized by section 611(a) of title 5, United States Code (as added by subsection (a)), shall apply only to final agency rules issued after such effective date.

(c) PRESIDENTIAL AUTHORITY.—Nothing in this Act shall limit the exercise by the President of the authority and responsibility that the President otherwise possesses under the Constitution and other laws of the United States with respect to regulatory policies, procedures, and programs of departments, agencies, and offices.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Part I of title 5, United States Code, is amended by striking out the chapter heading and table of sections for chapter 6 and inserting in lieu thereof the following:

''CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

''SUBCHAPTER I—REGULATORY ANALYSIS

''SUBCHAPTER II—ANALYSIS OF AGENCY RULES

''SUBCHAPTER III—RISK ASSESSMENTS

''SUBCHAPTER IV—EXECUTIVE OVERSIGHT

(2) Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

''SUBCHAPTER I—REGULATORY ANALYSIS''.

SEC. 4. CONGRESSIONAL REVIEW.

(a) IN GENERAL.—Part I of title 5, United States Code, is amended by inserting after chapter 7 the following new chapter:

''CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

''§ 801. Congressional review of agency rulemaking

''(a) For purposes of this chapter, the term—

''(1) 'major rule' means a major rule as defined under section 621(4) of this title and as determined under section 622 of this title; and

''(2) 'rule' (except in reference to a rule of the Senate or House of Representatives) is a reference to a major rule.

''(b)(1) Upon the promulgation of a final major rule, the agency promulgating such rule shall submit to the Congress a copy of the rule, the statement of basis and purpose for the rule, and the proposed effective date of the rule.

''(2) A rule submitted under paragraph (1) shall not take effect as a final rule before the latest of the following:

''(A) The later of the date occurring 45 days after the date on which—

''(i) the Congress receives the rule submitted under paragraph (1); or

''(ii) the rule is published in the Federal Register.

''(B) If the Congress passes a joint resolution of disapproval described under subsection (i) relating to the rule, and the President signs a veto of such resolution, the earlier date—

''(i) on which either House of Congress votes and fails to override the veto of the President; or

''(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President.

''(C) The date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under subsection (i) is approved).

''(c) A major rule shall not take effect as a final rule if the Congress passes a joint resolution of disapproval described under subsection (i), which is signed by the President or is vetoed and overridden by the Congress.

''(d)(1) Notwithstanding any other provision of this section (except subject to paragraph (2)), a major rule that would not take effect by reason of this section may take effect if the President makes a determination and submits written notice of such determination to the Congress that the major rule should take effect because such major rule is—

''(A) necessary because of an imminent threat to health or safety, or other emergency;

''(B) necessary for the enforcement of criminal laws; or

''(C) necessary for national security.

''(2) An exercise by the President of the authority under this subsection shall have no effect on the procedures under subsection (i) or the effect of a joint resolution of disapproval under this section.

''(e)(1) Subsection (i) shall apply to any major rule that is promulgated as a final rule during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes.

''(2) For purposes of subsection (i), a major rule described under paragraph (1) shall be treated as though such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date the succeeding Congress first convenes.

''(3) During the period between the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, a rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law.

''(f) Any rule that takes effect and later is made of no force or effect by the enactment of a joint resolution under subsection (i) shall be treated as though such rule had never taken effect.

''(g) If the Congress does not enact a joint resolution of disapproval under subsection (i), no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such major rule, related statute, or joint resolution of disapproval.

''(h) If the agency fails to comply with the requirements of subsection (b) for any rule, the rule shall cease to be enforceable against any person.

''(i)(1) For purposes of this subsection, the term 'joint resolution' means only a joint resolution introduced after the date on which the rule referred to in subsection (b) is received by Congress the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the _____ relating to _____, and such rule shall have no force or effect.' (The blank spaces being appropriately filled in.)

''(2)(A) In the Senate, a resolution described in paragraph (1) shall be referred to the committees with jurisdiction. Such a resolution shall not be reported before the eighth day after its submission or publication date.

''(B) For purposes of this subsection, the term 'submission or publication date' means the later of the date on which—

''(i) the Congress receives the rule submitted under subsection (b)(1); or

''(ii) the rule is published in the Federal Register.

''(3) In the Senate, if the committee to which a resolution described in paragraph (1) is referred has not reported such resolution (or an identical resolution) at the end of 20 calendar days after its submission or publication date, such committee may be discharged on a petition approved by 30 Senators from further consideration of such resolution and such resolution shall be placed on the Senate calendar.

''(4)(A) In the Senate, when the committee to which a resolution is referred has reported, or when a committee is discharged (under paragraph (3)) from further consideration of, a resolution described in paragraph (1), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Senator to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) shall be waived. The motion shall be privileged in the Senate and shall not be debatable. The motion shall not be subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the Senate until disposed of.

''(B) In the Senate, debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall be in order and shall not be debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution shall not be in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order.

''(C) In the Senate, immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the Senate rules, the vote on final passage of the resolution shall occur.

''(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

''(5) If, before the passage in the Senate of a resolution described in paragraph (1), the Senate receives from the House of Representatives a resolution described in paragraph (1), then the following procedures shall apply:

''(A) The resolution of the House of Representatives shall not be referred to a committee.

''(B) With respect to a resolution described in paragraph (1) of the Senate—

''(i) the procedure in the Senate shall be the same as if no resolution had been received from the other House; but

''(ii) the vote on final passage shall be on the resolution of the other House.

''(6) This subsection is enacted by Congress—

''(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed to be a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

''(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

''(j) No requirements under this chapter shall be subject to judicial review in any manner.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part I of title 5, United States Code, is amended by inserting after the item relating to chapter 7 the following:

''8. Congressional Review of Agency Rulemaking ..... 801''.

SEC. 5. STUDIES AND REPORTS.

(a) RISK ASSESSMENTS.—The Administrative Conference of the United States shall—

(1) develop and carry out an ongoing study of the operation of the risk assessment requirements of subchapter III of chapter 6 of title 5, United States Code (as added by section 3 of this Act); and

(2) submit an annual report to the Congress on the findings of the study.

(b) ADMINISTRATIVE PROCEDURE ACT.—No later than December 31, 1996, the Administrative Conference of the United States shall—

(1) carry out a study of the operation of chapters 5 and 6 of title 5, United States Code (commonly referred to as the Administrative Procedure Act), as amended by section 3 of this Act; and

(2) submit a report to the Congress on the findings of the study, including proposals for revision, if any.

SEC. 6. RISK-BASED PRIORITIES.

(a) PURPOSES.—The purposes of this section are to—

(1) encourage Federal agencies engaged in regulating risks to human health, safety, and the environment to achieve the greatest risk reduction at the least cost practical;

(2) promote the coordination of policies and programs to reduce risks to human health, safety, and the environment; and

(3) promote open communication among Federal agencies, the public, the President, and Congress regarding environmental, health, and safety risks, and the prevention and management of those risks.

(b) DEFINITIONS.—For the purposes of this section:

(1) COMPARATIVE RISK ANALYSIS.—The term ''comparative risk analysis'' means a process to systematically estimate, compare, and rank the size and severity of risks to provide a common basis for evaluating strategies for reducing or preventing those risks.

(2) COVERED AGENCY.—The term ''covered agency'' means each of the following:

(A) The Environmental Protection Agency.

(B) The Department of Labor.

(C) The Department of Transportation.

(D) The Food and Drug Administration.

(E) The Department of Energy.

(F) The Department of the Interior.

(G) The Department of Agriculture.

(H) The Consumer Product Safety Commission.

(I) The National Oceanic and Atmospheric Administration.

(J) The United States Army Corps of Engineers.

(K) The Nuclear Regulatory Commission.

(3) EFFECT.—The term ''effect'' means a deleterious change in the condition of—

(A) a human or other living thing (including death, cancer, or other chronic illness, decreased reproductive capacity, or disfigurement); or

(B) an inanimate thing important to human welfare (including destruction, degeneration, the loss of intended function, and increased costs for maintenance).

(4) IRREVERSIBILITY.—The term ''irreversibility'' means the extent to which a return to conditions before the occurrence of an effect are either very slow or will never occur.

(5) LIKELIHOOD.—The term ''likelihood'' means the estimated probability that an effect will occur.

(6) MAGNITUDE.—The term ''magnitude'' means the number of individuals or the quantity of ecological resources or other resources that contribute to human welfare that are affected by exposure to a stressor.

(7) SERIOUSNESS.—The term ''seriousness'' means the intensity of effect, the likelihood, the irreversibility, and the magnitude.

(c) DEPARTMENT AND AGENCY PROGRAM GOALS.—

(1) SETTING PRIORITIES.—In exercising authority under applicable laws protecting human health, safety, or the environment,

the head of each covered agency should set priorities and use the resources available under those laws to address those risks to human health, safety, and the environment that—

(A) the covered agency determines to be the most serious; and

(B) can be addressed in a cost-effective manner, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

(2) DETERMINING THE MOST SERIOUS RISKS.—In identifying the greatest risks under paragraph (1) of this subsection, each covered agency shall consider, at a minimum—

(A) the likelihood, irreversibility, and severity of the effect; and

(B) the number and classes of individuals potentially affected, and shall explicitly take into account the results of the comparative risk analysis conducted under subsection (d) of this section.

(3) OMB REVIEW.—The covered agency's determinations of the most serious risks for purposes of setting priorities shall be reviewed and approved by the Director of the Office of Management and Budget before submission of the covered agency's annual budget requests to Congress.

(4) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each covered agency shall incorporate the priorities identified under paragraph (1) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner under paragraph (1), the basis for that determination, and explicitly identify how the covered agency's requested budget and regulatory agenda reflect those priorities.

(5) EFFECTIVE DATE.—This subsection shall take effect 12 months after the date of enactment of this Act.

(d) COMPARATIVE RISK ANALYSIS.—

(1) REQUIREMENT.—(A)(i) No later than 6 months after the effective date of this Act, the Director of the Office of Management and Budget shall enter into appropriate arrangements with an accredited scientific body—

(I) to conduct a study of the methodologies for using comparative risk to rank dissimilar human health, safety, and environmental risks; and

(II) to conduct a comparative risk analysis.

(ii) The comparative risk analysis shall compare and rank, to the extent feasible, human health, safety, and environmental risks potentially regulated across the spectrum of programs administered by all covered agencies.

(B) The Director shall consult with the Office of Science and Technology Policy regarding the scope of the study and the conduct of the comparative risk analysis.

(2) CRITERIA.—In arranging for the comparative risk analysis referred to in paragraph (1) of this subsection, the Director shall ensure that—

(A) the scope and specificity of the analysis are sufficient to provide the President and agency heads guidance in allocating resources across agencies and among programs in agencies to achieve the greatest degree of risk prevention and reduction for the public and private resources expended;

(B) the analysis is conducted through an open process, by individuals with relevant expertise, including toxicologists, biologists, engineers and experts in medicine, industrial hygiene and environmental effects;

(C) the analysis is conducted, to the extent feasible, consistent with the risk assessment and risk characterization principles in sections 635 and 636 of this title;

(D) the methodologies and principal scientific determinations made in the analysis are subjected to independent and external peer review consistent with section 635, and the conclusions of the peer review are made publicly available as part of the final report required under subsection (e);

(E) there is an opportunity for public comment on the results before making them final; and

(F) the results are presented in a manner that distinguishes between the scientific conclusions and any policy or value judgments embodied in the comparisons.

(3) COMPLETION AND REVIEW.—No later than 3 years after the effective date of this Act, the comparative risk analysis required under paragraph (1) shall be completed. The comparative risk analysis shall be reviewed and revised at least every 5 years thereafter for a minimum of 15 years following the release of the first analysis. The Director shall arrange for such review and revision with an accredited scientific body in the same manner as provided under paragraphs (1) and (2).

(4) STUDY.—The study of methodologies provided under paragraph (1) shall be conducted as part of the first comparative risk analysis and shall be completed no later than 180 days after the completion of that analysis. The goal of the study shall be to develop and rigorously test methods of comparative risk analysis. The study shall have sufficient scope and breadth to test approaches for improving comparative risk analysis and its use in setting priorities for human health, safety, and environmental risk prevention and reduction.

(5) TECHNICAL GUIDANCE.—No later than 180 days after the effective date of this Act, the Director, in collaboration with other heads of covered agencies shall enter into a contract with the National Research Council to provide technical guidance to agencies on approaches to using comparative risk analysis in setting human health, safety, and environmental priorities to assist agencies in complying with subsection (c) of this section.

(e) REPORTS AND RECOMMENDATIONS TO CONGRESS AND THE PRESIDENT.—No later than 24 months after the effective date of this Act, each covered agency shall submit a report to Congress and the President—

(1) detailing how the agency has complied with subsection (c) and describing the reasons for any departure from the requirement to establish priorities to achieve the greatest overall net reduction in risk;

(2) recommending—

(A) modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

(B) modification or elimination of statutorily or judicially mandated deadlines,

that would assist the covered agency to set priorities in activities to address the risks to human health, safety, or the environment in a manner consistent with the requirements of subsection (c)(1);

(3) evaluating the categories of policy and value judgments used in risk assessment, risk characterization, or cost-benefit analysis; and

(4) discussing risk assessment research and training needs, and the agency's strategy and schedule for meeting those needs.

(f) SAVINGS PROVISION AND JUDICIAL REVIEW.—

(1) IN GENERAL.—Nothing in this section shall be construed to modify any statutory standard or requirement designed to protect human health, safety, or the environment.

(2) JUDICIAL REVIEW.—Compliance or noncompliance by an agency with the provisions of this section shall not be subject to judicial review.

(3) AGENCY ANALYSIS.—Any analysis prepared under this section shall not be subject to judicial consideration separate or apart from the requirement, rule, program, or law to which it relates. When an action for judicial review of a covered agency action is instituted, any analysis for, or relating to, the action shall constitute part of the whole record of agency action for the purpose of judicial review of the action and shall, to the extent relevant, be considered by a court in determining the legality of the covered agency action.

SEC. 7. REGULATORY ACCOUNTING.

(a) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) AGENCY.—The term ''agency'' means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but shall not include—

(A) the General Accounting Office;

(B) the Federal Election Commission;

(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

(D) government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities.

(2) REGULATION.—The term ''regulation'' means an agency statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the procedures or practice requirements of an agency. The term shall not include—

(A) administrative actions governed by sections 556 and 557 of title 5, United States Code;

(B) regulations issued with respect to a military or foreign affairs function of the United States; or

(C) regulations related to agency organization, management, or personnel.

(b) ACCOUNTING STATEMENT.—

(1) IN GENERAL.—(A) The President shall be responsible for implementing and administering the requirements of this section.

(B) Every 2 years, no later than June of the second year, the President shall prepare and submit to Congress an accounting statement that estimates the annual costs of Federal regulatory programs and corresponding benefits in accordance with this subsection.

(2) YEARS COVERED BY ACCOUNTING STATEMENT.—Each accounting statement shall cover, at a minimum, the 5 fiscal years beginning on October 1 of the year in which the report is submitted and may cover any fiscal year preceding such fiscal years for purpose of revising previous estimates.

(3) TIMING AND PROCEDURES.—(A) The President shall provide notice and opportunity for comment for each accounting statement. The President may delegate to an agency the requirement to provide notice and opportunity to comment for the portion of the accounting statement relating to that agency.

(B) The President shall propose the first accounting statement under this subsection no later than 2 years after the effective date of this Act and shall issue the first accounting statement in final form no later than 3 years after such effective date. Such statement shall cover, at a minimum, each of the fiscal years beginning after the effective date of this Act.

(4) CONTENT OF ACCOUNTING STATEMENT.—(A) Each accounting statement shall contain

estimates of costs and benefits with respect to each fiscal year covered by the statement in accordance with this paragraph. For each such fiscal year for which estimates were made in a previous accounting statement, the statement shall revise those estimates and state the reasons for the revisions.

(B)(i) An accounting statement shall estimate the costs of Federal regulatory programs by setting forth, for each year covered by the statement—

(I) the annual expenditure of national economic resources for each regulatory program; and

(II) such other quantitative and qualitative measures of costs as the President considers appropriate.

(ii) For purposes of the estimate of costs in the accounting statement, national economic resources shall include, and shall be listed under, at least the following categories:

(I) Private sector costs.

(II) Federal sector costs.

(III) State and local government costs.

(C) An accounting statement shall estimate the benefits of Federal regulatory programs by setting forth, for each year covered by the statement, such quantitative and qualitative measures of benefits as the President considers appropriate. Any estimates of benefits concerning reduction in human health, safety, or environmental risks shall present the most plausible level of risk practical, along with a statement of the reasonable degree of scientific certainty.

(c) ASSOCIATED REPORT TO CONGRESS.—

(1) IN GENERAL.—At the same time as the President submits an accounting statement under subsection (b), the President, acting through the Director of the Office of Management and Budget, shall submit to Congress a report associated with the accounting statement (hereinafter referred to as an ''associated report''). The associated report shall contain, in accordance with this subsection—

(A) analyses of impacts; and

(B) recommendations for reform.

(2) ANALYSES OF IMPACTS.—The President shall include in the associated report the following:

(A) The cumulative impact on the economy of Federal regulatory programs covered in the accounting statement. Factors to be considered in such report shall include impacts on the following:

(i) The ability of State and local governments to provide essential services, including police, fire protection, and education.

(ii) Small business.

(iii) Productivity.

(iv) Wages.

(v) Economic growth.

(vi) Technological innovation.

(vii) Consumer prices for goods and services.

(viii) Such other factors considered appropriate by the President.

(B) A summary of any independent analyses of impacts prepared by persons commenting during the comment period on the accounting statement.

(3) RECOMMENDATIONS FOR REFORM.—The President shall include in the associated report the following:

(A) A summary of recommendations of the President for reform or elimination of any Federal regulatory program or program element that does not represent sound use of national economic resources or otherwise is inefficient.

(B) A summary of any recommendations for such reform or elimination of Federal regulatory programs or program elements prepared by persons commenting during the comment period on the accounting statement.

(d) GUIDANCE FROM OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall, in consultation with the Council of Economic Advisers and the agencies, develop guidance for the agencies—

(1) to standardize measures of costs and benefits in accounting statements prepared pursuant to this section and section 3 of this Act, including—

(A) detailed guidance on estimating the costs and benefits of major rules; and

(B) general guidance on estimating the costs and benefits of all other rules that do not meet the thresholds for major rules; and

(2) to standardize the format of the accounting statements.

(e) RECOMMENDATIONS FROM CONGRESSIONAL BUDGET OFFICE.—After each accounting statement and associated report submitted to Congress, the Director of the Congressional Budget Office shall make recommendations to the President—

(1) for improving accounting statements prepared pursuant to this section, including recommendations on level of detail and accuracy; and

(2) for improving associated reports prepared pursuant to this section, including recommendations on the quality of analysis.

(f) JUDICIAL REVIEW.—No requirements under this section shall be subject to judicial review in any manner.

SEC. 8. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act shall take effect 180 days after the date of the enactment of this Act.

REGULATORY REFORM ALTERNATIVE AND COMPARISONS WITH DOLE/JOHNSTON

Our principles for regulatory reform are the following:

(1) Cost-benefit and risk assessment requirements should apply to only major rules, which has been set at $100 million for executive branch review since President Reagan's time.

Our bill applies to rules that have an impact on the economy of $100 million or more.

The Dole/Johnston draft applies to rules that have an impact on the economy of $50 million or more.

(2) Regulatory reform should not become a lawyer's dream, opening up a multitude of new avenues for judicial review.

Our bill limits judicial review to determinations of: (1) whether a rule is major; and (2) whether a final rule is arbitrary or capricious, taking into consideration the whole rulemaking file. Specific procedural requirements for cost-benefit analysis and risk assessment are not subject to judicial review except as part of the whole rulemaking file.

The Dole/Johnston draft will lead to a litigation explosion that will swamp the courts and bog down agencies. It would allow review of steps in risk assessment and cost-benefit analysis, in addition to the determination of a major rule and of agency decisions to grant or deny petitions. It alters APA standards in ways that undermine legal precedent and invite lawsuits. And it seeks to limit agency discretion in ways that will lead inevitably to challenges in court.

(3) Regulatory reform should not be a ''fix'' for special interests.

Our bill focuses on the fundamentals of regulatory reform and contains no special interest provisions.

The Dole/Johnston draft provides relief to specific business interests, e.g., by restricting the Toxics Release Inventory, limiting the Delaney Clause, and delaying and increasing costs of Superfund cleanups.

(4) Regulatory reform should make Federal agencies more efficient and effective, not tie up agency resources with additional bureaucratic processes.

Our bill requires cost-benefit analysis and risk assessment for major rules, and requires agencies to review all their major rules by a time certain.

The Dole/Johnston draft covers a much broader scope of rules and has several convoluted petition processes for ''interested parties'' (e.g., to amend or rescind a major rule, and to review policies or guidance). These petitions are judicially reviewable and must be granted or denied by an agency within a specified time frame. The petitions will eat up agency resources and allow the petitioners, not the agencies, to set agency priorities.

(5) Regulatory reform legislation should improve analysis, but not override health, safety or environmental protections.

Our bill requires agencies to explain whether benefits justify costs and whether the rule will be more cost-effective than alternatives. It does not allow cost-benefit determinations to control agency decisions or to override existing protections of health, safety or environmental laws.

The Dole/Johnston draft has three separate decisional criteria that control agency decisions, regardless of the underlying statutes. These overriding provisions are created for major rule cost-benefit determinations, for environmental cleanups, and for regulatory flexibility analyses. The reg flex override actually conflicts with the cost-benefit decisional criteria. And the cost-benefit test limits agencies to the cheapest rule, not the most cost-effective one.

(6) There should be ''sunshine'' in the regulatory review process.

Our bill ensures that agencies and OMB publicly disclose the status of regulatory review, related decisions and documents, and communications from persons outside of the government.

The Dole/Johnston draft has no ''sunshine'' provisions to protect against regulatory review delay, unsubstantiated review decisions or undisclosed special interest lobbying and political deals.

The text of this bill is almost identical to S. 291, the ''Regulatory Reform Act of 1995,'' which was reported unanimously from the Senate Committee on Governmental Affairs. Like S. 291, this bill:

(1) Covers all ''major'' rules with a cost impact of $100 million.

(2) Requires cost-benefit analysis for all major rules.

(3) Requires risk assessment for all major rules related to environment, health, or safety.

(4) Requires peer review of cost-benefit analyses and risk assessments.

(5) Limits judicial review to the determination of ''major'' rules and to the final rulemaking file.

(6) Requires agencies to review existing rules every ten years, with a presidential extension of up to five years.

(7) Provides judicial review of Regulatory Flexibility Act decisions, allowing one year for small entities to petition for review of agency compliance with the Reg Flex Act.

(8) Requires public disclosure of regulatory analysis and review documents to ensure ''sunshine'' in the regulatory review process.

(9) Provides legislative ''veto'' of major rules to provide an expedited procedure for Congress to review rules.

(10) Requires risk-based priority setting for the most serious risks to health, safety, and the environment.

(11) Requires regulatory accounting every two years on the cumulative costs and benefits of agency regulations.

This bill only differs from S. 291 on three points:

(1) It does not have an arbitrary sunset for existing rules that agency fail to be reviewed. Rather, it has an action-forcing

mechanism that uses the rulemaking process.

(2) It does not include any narrative definitions for ''major'' rule (e.g., ''adverse effects on wages'').

(3) It incorporates technical changes to risk assessment to track more closely recommendations of the National Academy of Sciences and to cover specific programs and agencies, not just agencies.

LIFTING THE YACHTS, SWAMPING THE ROWBOATS

Mr. DASCHLE. Mr. President, if you look past the headlines and the hype connected to the conference agreement on the budget resolution, I think the American people can get a pretty good sense of who's looking out for whom in the Republican budget.

Republican budget writers talked about putting tax money back into the hands of wage earners. Republican budget writers talked about their big tax cuts to fuel the Nation's economic engine.

But the only engine this budget primes is the full-throttle expansion of incomes for the wealthiest Americans. The Republican budget does nothing to address the fact that middle-income families have been stuck in neutral for the past 20 years, while many low-income Americans are sliding into reverse.

Republican budget priorities will only serve to drive deeper and wider the wedge between Americans at either end of the earnings scale.

This country always had, and always will have, the rich, the poor, and the middle class. Like never before, however, these economic groups are pulling away from each other, and it's tearing at the social fabric of our Nation.

Every year, families in the top 5 percent in terms of income now make, on average, the rough equivalent of what 16 low-wage families combined struggle to earn in a year. In the past two decades, America's top earners enjoyed an average 25-percent increase in cash income. Down at the bottom, the lowest wage workers actually felt a 7-percent drop in pay over the same period.

According to a survey published last Sunday in the Washington Post, no other industrialized nation on Earth has a greater income gap between top and bottom than the United States. And in between, the middle class grows larger in number, but their paychecks are stuck in a rut. Hourly wages of workers with average skills are sliding. The absolute incomes of low- and middle-income Americans are actually below those of people in other industrialized countries that are poorer than the United States.

That, Mr. President, is unacceptable. This country was built on the promise of hope that people can, indeed, come up from nothing. That you can work hard from the bottom and eventually reach the top. That you can build a better future for your family through your own honest efforts.

That promise is becoming a lie to an ever-increasing number of Americans. The road to prosperity now crosses a bridge that spans further than many Americans can see.

Mr. President, Democrats believe in prosperity. We believe in economic progress. We want to help American workers earn more. We want more Americans to be wealthy. We would like more low-wage workers to join the ranks of the middle-class. We would like more middle class workers to join the ranks of the rich.

But it seems to me that the Republican budget aspires to no such progress.

It seems to me that the Republican budget will punish those Americans now mired in this stagnant status quo, and provide a kind of winner's bonus to those traveling on the fast track.

While we don't know yet exactly who will get their hands on this $245 billion tax cut, we do know that the House bill gave over half the tax cuts to the 2.8 percent of families making more than $100,000. It is safe bet to assume that the wealthiest 1 percent will get at least a $20,000 tax cut. That little bonus alone is more than twice the annual income earned by families at the bottom of the scale.

And what do we offer to those families who are struggling to move up? Education cuts that hit 65 million children. Student loans that cost $3,000 more per student; $100 billion in so-called welfare reforms, and cuts in the earned income tax credit. And I will not even begin to talk about the harm that will be felt by their plan for Medicare and Medicaid.

It is painfully clear where the priorities lie in the Republican budget. And its not just Democrats who have figured it out. According to Stanford economist Paul Krugman: ''Quite obviously these programs would make unequal incomes even more unequal, particularly at the extremes—the very rich and the very poor.'' Frank Levy, an economist at MIT says:

> We're going through a period in which trade and technology are like an economic natural disaster for the half of the working population that does not have a college degree . . . the last thing you would want to do right now is to have Government make a bad situation worse by extending tax breaks to the rich.

Democrats and Republicans agree on producing a budget that comes into balance within a decade. But Democrats refuse to forget the working Americans who must struggle to live their lives, pay their mortgages, educate their children, and provide for their families over that same decade. These are the families Democrats will neither abandon nor betray in the face of this $245 billion gold rush within the just-passed Republican budget.

Finally, Mr. President, I commend to my colleagues' attention an op-ed printed in last Sunday's Washington Post, ''America's Tide: Lifting the Yachts, Swapping the Rowboats,'' by Gary Burtless and Timothy Smeeding. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 25, 1995]

AMERICA'S TIDE: LIFTING THE YACHTS, SWAMPING THE ROWBOATS

(By Gary Burtless and Timothy Smeeding)

During the early postwar era, most American families could expect to see their incomes grow from one year to the next. During both the 1950s and 1960s, median family income adjusted for inflation rose about a third. With incomes growing this fast, few people (and even fewer politicians) bothered to inquire very closely into the distribution of income. A rising tide lifted all boats, the rowboats as well as the yachts.

But since the early 1970s, the nation's experience has been much more discouraging. In the past 20 years, incomes have not grown at all, and for families near the bottom of the distribution, incomes have done even worse—they have shrunk.

Instead of routinely hearing news about growing incomes, Americans now read dismal reports of swelling poverty rolls, rising inequality and shrinking wages. It would be wrong to conclude from these reports that the United States has not enjoyed prosperity since 1973. On the contrary, the nation added more than 40 million jobs and enjoyed three of its longest postwar expansions.

But American prosperity is extremely uneven. Families and workers at the top of the economic ladder have enjoyed rising incomes. Families in the middle have seen their incomes stagnate or slip. Young families and workers at the bottom have suffered the equivalent of a Great Depression. Though the nation is in the midst of a robust expansion, recent census statistics offer no hint that the trend toward wider inequality has slowed. Poverty rates continue to rise, especially among children and young adults. Hourly wages of workers with average or below-average skills continue to slide. At the same time, the percentage of U.S. income received by the top 5 percent of households continues to climb, reaching new postwar highs almost every year.

Although the United States continues to have a large middle class, the disparity between those at the top of the income scale and those at the bottom has widened significantly. Measured in constant 1990 dollars, a family in the bottom one-fifth of the U.S. income distribution received about $10,400 in gross cash income in 1973. In the same year, a family in the top one-fifth received about $77,500, or roughly 7½ times the average gross income of those at the bottom.

By 1992, average gross income in the bottom fifth of the distribution had shrunk almost 7 percent, falling to just $9,700. Average gross income in the top fifth of the distribution had climbed to $98,800, a gain of more than 25 percent. The average income of a family in the top fifth of the distribution now amounts to more than 10 times that of those at the bottom of the distribution.

Gains among the very wealthy have been even more impressive. Those in the top 5 percent of the distribution saw their incomes climb nearly a third in the past two decades so that the average family in the top bracket takes in the equivalent of what 16 families in the bottom bracket earn. The rising tide is now lifting the yachts, but swamping the rowboats.

Not only have U.S. income disparities soared since the early 1970s, the gap between rich and poor has grown much faster than it has elsewhere in the industrialized world. When the recent inequality trend began, the United States already experienced wider income disparities than other countries with similar standards of living.